

**LOST**

Senator Heath of the 31st offered the following amendment:

Amend the committee substitute to HR 773 by deleting line 1 on page 1 through line 16 on page 4 and replace with language contained in LC 33 1567S

**A RESOLUTION**

Proposing an amendment to the Constitution of Georgia so as to change the existing provisions regarding the sales tax for education; to allow for a county school district in which one or more independent school districts are located to impose that tax jointly with the independent school districts which opt to participate or by itself if all independent school districts decline to participate, conditioned upon approval in a referendum; to provide for a method of distribution for taxes simultaneously collected by a county school district and an independent school district within the county; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article VIII, Section VI of the Constitution is amended by striking Paragraph IV in its entirety and inserting in lieu thereof a new Paragraph IV to read as follows:

"Paragraph IV. ***Sales tax for educational purposes.*** (a)(1) The board of education of each school district in a county in which no independent school district is located may by resolution ~~and the board of education of each county school district and the board of education of each independent school district located within such county may by concurrent resolutions~~ impose, levy, and collect within such school district a sales and use tax for educational purposes of such school ~~districts~~ district conditioned upon approval by a majority of the qualified voters residing within the limits of the local taxing jurisdiction voting in a referendum thereon.

(2) In any county in which one or more independent school districts are wholly or partially located, the board of education of the county school district and the board of education of any one or more independent school districts located within such county opting to participate, may by resolution impose, levy, and collect a sales and use tax for educational purposes of such participating school districts conditioned upon approval by

1 a majority of the qualified voters residing within the limits of the local taxing  
2 jurisdictions voting in a referendum thereon.

3 (3) In the event that all independent school districts wholly or partially located within  
4 the county decline to participate, the board of education of the county school district may  
5 by resolution impose, levy, and collect a sales and use tax for educational purposes of  
6 such school district conditioned upon approval by a majority of the qualified voters  
7 residing within the limits of the local taxing jurisdiction voting in a referendum thereon.

8 (4) This tax shall be at the rate of 1 percent and shall be imposed for a period of time  
9 not to exceed five years, but in all other respects, except as otherwise provided in this  
10 Paragraph, shall correspond to and be levied in the same manner as the tax provided for  
11 by Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating  
12 to the special county 1 percent sales and use tax, as now or hereafter amended.  
13 Proceedings for the reimposition of such tax shall be in the same manner as proceedings  
14 for the initial imposition of the tax, but the newly authorized tax shall not be imposed  
15 until the expiration of the tax then in effect.

16 (b) The purpose or purposes for which the proceeds of the tax are to be used and may be  
17 expended include:

18 (1) Capital outlay projects for educational purposes;

19 (2) The retirement of previously incurred general obligation debt with respect only to  
20 capital outlay projects of the school system; provided, however, that the tax authorized  
21 under this Paragraph shall only be expended for the purpose authorized under this  
22 subparagraph (b)(2) if all ad valorem property taxes levied or scheduled to be levied prior  
23 to the maturity of any such then outstanding general obligation debt to be retired by the  
24 proceeds of the tax imposed under this Paragraph shall be reduced by a total amount  
25 equal to the total amount of proceeds of the tax imposed under this Paragraph to be  
26 applied to retire such bonded indebtedness. In the event of failure to comply with the  
27 requirements of this subparagraph (b)(2), as certified by the Department of Revenue, no  
28 further funds shall be expended under this subparagraph (b)(2) by such county or  
29 independent board of education and all such funds shall be maintained in a separate,  
30 restricted account and held solely for the expenditure for future capital outlay projects for  
31 educational purposes; or

32 (3) A combination of the foregoing.

33 (c) The resolution calling for the imposition of the tax and the ballot question shall each  
34 describe:

35 (1) The specific capital outlay projects to be funded, or the specific debt to be retired, or  
36 both, if applicable;

(2) The maximum cost of such project or projects and, if applicable, the maximum amount of debt to be retired, which cost and amount of debt shall also be the maximum amount of net proceeds to be raised by the tax; and

(3) The maximum period of time, to be stated in calendar years or calendar quarters and not to exceed five years.

(d) Nothing in this Paragraph shall prohibit a county and those municipalities located in such county from imposing as additional taxes local sales and use taxes authorized by general law.

(e) The tax imposed pursuant to this Paragraph shall not be subject to and shall not count with respect to any general law limitation regarding the maximum amount of local sales and use taxes which may be levied in any jurisdiction in this state.

(f) The tax imposed pursuant to this Paragraph shall not be subject to any sales and use tax exemption with respect to the sale or use of food and beverages which is imposed by law.

(g)(1) The net proceeds of the tax shall be distributed to the county school district in which the tax is collected if no independent school district is located therein.

(2)(A) If such a tax is simultaneously collected by a county school district and one or more participating independent school districts within such county, then the net proceeds of the tax shall be distributed between the county school district and the participating independent school district or districts, or portion thereof, located in such county according to the ratio the student enrollment in each school district, or portion thereof, bears to the total student enrollment of all school districts in the county or upon such other formula for distribution as may be authorized by local law the calculation provided for in this subparagraph. For purposes of this subparagraph, student enrollment shall be based on the latest full-time equivalency (FTE) count as conducted twice annually as provided by general law prior to the referendum on imposing the tax.

(B) With respect to each participating independent school district, the total distribution of proceeds of the tax to that district shall be calculated as follows:

(i) The number of FTE students residing in and attending the independent school district shall be added to the number of FTE students residing in the county school district and attending in the independent school district;

(ii) The number of FTE students residing in the independent school district and attending in the county school district shall be subtracted from the figure derived under subparagraph (2)(B)(i);

(iii) The figure derived under subparagraph (2)(B)(ii) shall be divided by the sum of the number of FTE students residing in the county school district and the number of FTE students residing in the independent school district; and

(iv) The figure derived under subparagraph (2)(B)(iii) shall be multiplied by the total amount of annual tax proceeds collected pursuant to this paragraph in the county, which shall be the total distribution of proceeds to the independent school district.

(C) With respect to the county school district, the total distribution of proceeds of the tax to that district shall be calculated as follows:

(i) The number of FTE students residing in and attending in the county school district shall be added to the number of FTE students residing in the independent school district and attending in the county school district;

(ii) The number of FTE students residing in the county school district and attending in the independent school district shall be subtracted from the figure derived under subparagraph (2)(C)(i);

(iii) The figure derived under subparagraph (2)(C)(ii) shall be divided by the sum of the number of FTE students residing in the county school district and the number of FTE students residing in the independent school district; and

(iv) The figure derived under subparagraph (2)(C)(iii) shall be multiplied by the total amount of annual tax proceeds collected pursuant to this paragraph in the county, which shall be the total distribution of proceeds to the county school district.

(D) Notwithstanding subparagraphs (2)(B) and (2)(C), the county school district and each participating independent school district shall send an amount equivalent to one FTE student for each student residing in such county school district or participating independent school district but attending a school in a district other than the county school district or participating independent school district.

(h) Excess proceeds of the tax which remain following expenditure of proceeds for authorized projects or purposes for education shall be used solely for the purpose of reducing any indebtedness of the school system. In the event there is no indebtedness, such excess proceeds shall be used by such school system for the purpose of reducing its millage rate in an amount equivalent to the amount of such excess proceeds.

(i) The tax authorized by this Paragraph may be imposed, levied, and collected as provided in this Paragraph without further action by the General Assembly, but the General Assembly shall be authorized by general law to further define and implement its provisions including, but not limited to, the authority to specify the percentage of net proceeds to be allocated among the projects and purposes for which the tax was levied.

(j)(1) Notwithstanding any provision of any constitutional amendment continued in force and effect pursuant to Article XI, Section I, Paragraph IV(a) and except as otherwise provided in subparagraph (j)(2) of this Paragraph, any political subdivision whose ad valorem taxing powers are restricted pursuant to such a constitutional amendment may receive the proceeds of the tax authorized under this Paragraph or of any local sales and use tax authorized by general law, or any combination of such taxes, without any corresponding limitation of its ad valorem taxing powers which would otherwise be required under such constitutional amendment.

(2) The restriction on and limitation of ad valorem taxing powers described in subparagraph (j)(1) of this Paragraph shall remain applicable with respect to proceeds received from the levy of a local sales and use tax specifically authorized by a constitutional amendment in force and effect pursuant to Article XI, Section I, Paragraph IV(a), as opposed to a local sales and use tax authorized by this Paragraph or by general law."

## SECTION 2.

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

"( ) YES Shall the Constitution of Georgia be amended to provide that county school systems may continue to authorize and collect the one-cent sales tax for public school capital projects, even when a city school system located within a county chooses not to participate; and to provide for voter referendum approval and collection and distribution of taxes only in participating school system jurisdictions?"

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."  
All persons desiring to vote against ratifying the proposed amendment shall vote "No." If such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall become a part of the Constitution of this state.